

**BUDGET AND STAFFING REPORT
ON
OFFICE OF RATEPAYER ADVOCATES**

For the

Joint Legislative Budget Committee

Budget and Fiscal Review Committee
California State Senate

Budget Committee
California State Assembly

***California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102***

Executive Summary

This report is submitted pursuant to Section 309.5(g) of the Public Utilities Code.

The California Public Utilities Commission (PUC) is the only agency in California that is charged with protecting utility consumers. As such, the PUC's Office of Ratepayer Advocates (ORA) plays a critical, and often sole, role in ensuring that consumers are represented and have a voice in PUC decisions.

ORA's budget is a separate line item in the PUC's overall budget. For fiscal year (FY) 2003/2004, ORA's budget is \$20.5 million including staff and administrative overhead.¹ ORA currently has 123 authorized positions, 11 percent less than during FY 2002/2003.

ORA workload standards and measures are based on the number of proceedings and pleadings in which ORA advocates on behalf of California's consumers, including 10.5 million electric customers, 9.7 million natural gas customers, 6.8 million water customers and over 16 million wireless and landline telephone customers.

In 2003, ORA participated in 211 proceedings, filed 528 pleadings, and responded to hundreds of other utility requests. ORA's recommendations during FY 2002/2003 have resulted in hundreds of millions of dollars in reductions or avoided increases in utility consumer rates.

- ❑ In the PG&E General Rate Case, ORA helped negotiate a settlement with PG&E that will cut \$383 million over the next three years from the utility's request.
- ❑ ORA helped persuade the California Pollution Control Financing Authority to keep financing PG&E's existing pollution control bonds at a tax-exempt rate, saving ratepayers \$23 million each year for the next 20 years.
- ❑ The CPUC will likely adopt ORA's recommendations for natural gas and electricity procurement strategies by the large energy utilities and save ratepayers over \$22 million in 2004.
- ❑ ORA helped retain a revenue sharing program that has returned \$4.5 million to Roseville Telephone Company customers, reducing average bills by \$2 to \$3 per month. ORA is now working to return to Roseville customers another \$0.5 million or more this year.
- ❑ ORA led the fight against SBC's request for unlimited flexibility to increase directory assistance (411) rates. SBC has now asked to withdraw its request, saving customers hundreds of millions of dollars each year. SBC customers currently get three free calls per month, and pay \$.46 for each additional call. In its other states, SBC charges as much as \$1.25 per call, with no free-call allowance.

¹ Prior year, current year and following year budgets are displayed on Page 8.

- ❑ ORA helped negotiate a settlement on SDG&E's rates case keep rates stable and lessen the impact on customer bill as the utility's costs increase.
- ❑ In PG&E's bankruptcy case, ORA proposed a rate freeze that would have saved ratepayers about \$4 billion over nine years had the Commission adopted ORA's proposal.

ORA is uniquely positioned to ensure that the interests of public utility customers are adequately represented at the PUC. ORA's participation in PUC proceedings results in many benefits to utility consumers, like those listed above, that might not otherwise be realized.

Background on Office of Ratepayer Advocates

ORA is a division of the Commission that advocates solely on behalf of utility ratepayers. As such, ORA represents the interests of California utility consumers in Commission proceedings, investigations, and rulemakings. ORA also participates in Commission-sponsored working groups, advisory boards, workshops, and other forums. Among ORA's many responsibilities are evaluating utility proposals, investigating issues, presenting findings, litigating complaints, and making recommendations to the Commission.

ORA has a staff of professional engineers, auditors, economists, and financial and policy analysts who are experts in regulating the electric, natural gas, telecommunications, and water industries in California. ORA's mission, as defined by Senate Bill (SB) 960 of 1996 and embodied in P.U. Code Section 309.5, is to "*obtain the lowest possible rate for service consistent with reliable and safe service levels.*"

The recent energy crisis and melt down in the telecommunications industry serve to highlight the need for effective advocacy to protect utility consumers. Safe, reliable and affordable utility service is critical to economic recovery and is the focus of ORA's work.

History

The Division of Ratepayer Advocates (DRA) was established by the Legislature in 1985 to represent the interests of public utility customers in PUC proceedings (P.U. Code Section 309.5). In 1996, SB 960 revised Section 309.5, renaming the organization "the Office of Ratepayer Advocates" (ORA), and while keeping ORA within the PUC for administrative purposes, made it independent with respect to policy and advocacy. SB 960 made the Director of ORA a gubernatorial appointment subject to Senate confirmation. Subsequent bills removed the SB 960 sunset provision and directed ORA to primarily consider the interests of residential and small commercial customers in revenue allocation and rate design matters.

ORA Budget

The PUC is required to provide sufficient resources for ORA to represent consumer interests.² ORA's budget is a separate line item in the PUC's overall budget, which comes from user fees, not the state General Fund. ORA's \$20,540,000 budget for fiscal year 2003/2004 includes staff and administrative overhead and is developed under PUC and Department of Finance guidelines. The ORA budget is less than 1/10th of 1 percent of the \$33.2 billion in revenues for the top five energy and telephone companies, and represents a small fraction of the savings ORA brings to Californians in the form of lower utility rates or avoided rate increases.

² 309.5 (c): "The commission shall, by rule or order, provide for the assignment of personnel to, and the functioning of, the division. The division may employ experts necessary to carry out its functions. Personnel and resources shall be provided to the division at a level sufficient to ensure that customer and subscriber interests are fairly represented in all significant proceedings."

ORA Role at the PUC

ORA is uniquely positioned to assist California by analyzing and evaluating information (e.g., from utilities, markets, and consumers) for the benefit of its broad constituency of ratepayer clients. Notably, SB 521 (Bowen) now requires ORA to focus on representing residential and small commercial customers in matters of rate design and revenue allocation. Unlike other consumer interest groups, ORA has, by statute, explicit legal rights to obtain information from utilities. ORA is recognized for its thorough analysis of complex issues – something other consumer groups often rely on in representing their specific constituencies before the PUC. ORA works collaboratively with other consumer groups, but due to the increase in the number of proceedings in recent years, ORA is often the only voice representing consumer interests in a number of these proceedings.³ Since the Commission relies on a formal evidentiary record in rendering its decisions, ORA's participation ensures that the Commission has a record that reflects the interests of California consumers.

ORA is responsible for providing policy, economic, and technical analysis in ratemaking and policy setting proceedings before the PUC on behalf of utility customers. In complaint proceedings (PUC role similar to that of courts), the ORA's role is like that of a prosecutor.

ORA Scope of Work

California consumers spend more than \$38 billion annually for services from industries regulated by the PUC. ORA provides analysis and advocacy to inform decision makers about the effects of regulated company actions on these consumers. **ORA's recommendations have resulted in savings approximately a billion dollars in rates annually.** ORA focuses on systematic abuse and problems affecting the body of ratepayers it represents rather than addressing individual customer complaints. ORA's work has resulted in significant changes in utility practices and rates, in adjustment to rate base, and in marketplace controls.

In deciding the proceedings in which ORA involves itself, ORA looks at:

- ❑ Legislative intent and direction;
- ❑ The potential impact on utility consumers' rates or service quality;
- ❑ The number of Californians affected;
- ❑ Assuring consumers receive good service at reasonable prices and are treated fairly;
- ❑ Supporting the development of infrastructure that is affordable and meets consumers' current and long-term needs; and

³ For example, ORA is the only consumer advocate assessing whether Edison, PG&E and SDG&E are managing their power purchase contracts and dispatching utility owned generation in the most efficient and least cost manner. This assessment is conducted as part of its reasonableness review in each utility's Electricity Resource Recovery Account proceeding. ORA is also the only party that reviews the gas utilities natural gas procurement costs, and audits these costs. Further, ORA is the only party that conducts regulatory audits in General Rate Cases.

- ❑ The needs of those who are most vulnerable – low income, disabled, seniors, etc. – before the more sophisticated; and providing persuasive advocacy where there is no other voice speaking on behalf of consumers.

In 2003, ORA participated in 211 proceedings and made 528 pleadings.⁴ In addition to formal Commission proceedings, ORA also conducts a substantial amount of work outside of the hearing room. ORA reviews hundreds of smaller utility requests not requiring evidentiary hearings, and protests those that are adverse to ratepayers. ORA reviews consumer complaints to monitor problems customers encounter with providers of utility services to identify trends and protect consumers from unreasonable actions. ORA conducts Commission-ordered periodic monitoring of utility performance and operation, and brings to Commission attention any problems that are harmful to ratepayers. In addition, ORA monitors the marketplace to discern broader industry trends and their effect on consumer.

Over the last decade, deregulation efforts in the telecommunications, natural gas, and electricity industries by state and federal regulators have brought a huge increase in complex regulatory proceedings to the PUC. In addition to the traditional tension between consumers and regulated companies over the costs and quality of their services, the Commission and ORA are engaged in new proceedings to establish rules implementing fair competition and preventing market abuses.

ORA continues advocating for reasonable rates, reliable high quality service, and consumer protections for all industries, recommending appropriate corrective actions and strategic policy approaches that benefit utility consumers over both the short and long term. ORA seeks to ensure that consumers realize benefits from emerging, competitive markets and that consumers are protected from monopoly abuses in markets that are not competitive.

ORA's Consumer Advocacy Priorities

In advocating on behalf of California's energy, natural gas, telecommunications, and water consumers, ORA is dedicated to ensuring:

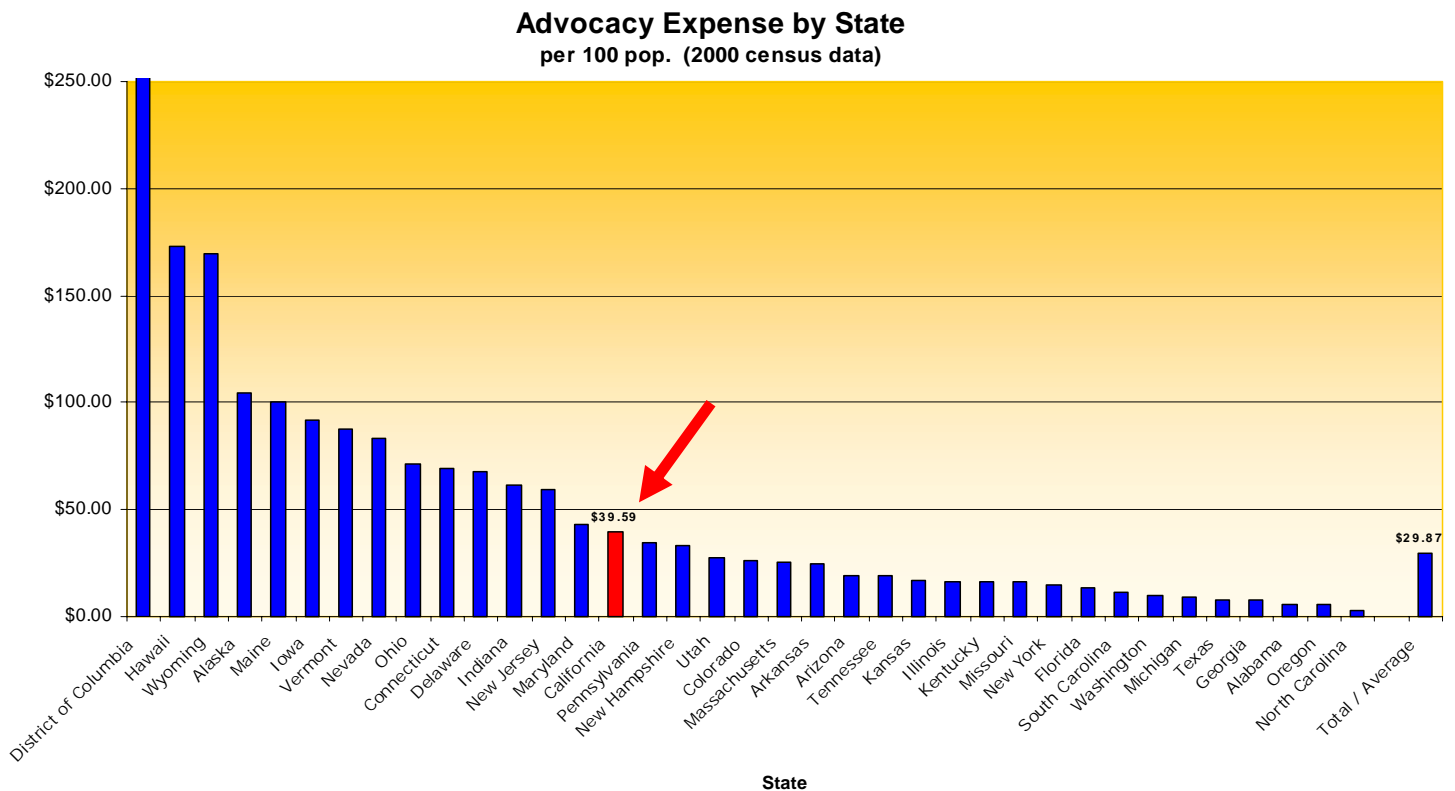
- ❑ **Reasonable rates:** Provides analysis and advocacy to inform decision-makers about the impacts of regulated company proposals on consumers; Performs audits, review company finances and operations to ensure affordable rates.
- ❑ **Consumer protection:** Monitors utility billing and marketing practices to prevent consumer abuses;

⁴ These statistics are an attempt at quantifying the ORA workload, but still fall short of telling the full story. There are substantial differences in significance of and effort invested in participating in various proceedings. For example, in an electricity General Rate Case proceeding that scrutinizes utility costs, operations, practices and requested rates, ORA would typically assign 20 or so full time staff members. Such a proceeding often requires weeks of evidentiary hearings, the filing of extensive testimony, cross-examination, briefs and so on. In contrast, a proceeding that investigates what's needed to make broadband more ubiquitous in California would not require any hearings, testimony or cross examination, but would instead likely solicit only written comments from parties. ORA would likely assigned only one person to this proceeding. The same differences apply to utility requests filed as "advice letters". Some advice letters require the attention of several staff people working full time for several weeks, while others may require only one person working part time for a couple of days.

- ❑ **Service quality:** Monitors utility services to promote good service at fair rates;
- ❑ **Safety and reliability:** Reviews utility practices to prevent outages and accidents; assure compliance with water quality standards.
- ❑ **Access to essential utility services:** Advocates for affordable access for all to essential utility services, particularly for low-income consumers;
- ❑ **Trustworthy information:** Works to ensure that customers have access to useful information about choices and options.

Comparison to Advocacy in Other States

There are 42 Consumer Advocate offices in 40 states and the District of Columbia. Sixteen advocates are housed in Attorney General's offices. Others are part of state public utility commissions, governor offices, other state agencies, or are stand-alone independent agencies.



Staffing and Resources

Section 309.5 (g) of the Public Resources code requires that specific information concerning ORA to be submitted to the legislature by January 10, each fiscal year.⁵

Section 309.5 (g) requires the following information:

1. *“The number of personnel years assigned to the Office of Ratepayer Advocates”*

ORA started FY 2003/2004 with 137 authorized positions.⁶ As a result of Section 4.10 reductions, ORA lost 14 positions -- an 11% reduction in staff. The table below provides a comparison with prior and projected staffing levels.

ORA Staffing

Fiscal Year	Total ORA Staff	Explanation
2002/03	138	
2003/04	123	<ul style="list-style-type: none">• 1 position expired 6/30/03 (AB 1973)• 14 positions lost to Section 4.10 reductions

2. *“The total dollars expended by the Office of Ratepayer Advocates in the prior year, the estimated total dollars expended in the current year, and the total dollars proposed for appropriation in the following budget year.”*

ORA Budget

Fiscal Year	Total Direct Dollars	Total Dollars Including Legal and Administrative Support ⁷
2002/2003	15,440,461	20,804,000
2003/2004	15,177,000	20,540,000
2004/2005	15,320,000	20,683,000

3. *“Workload standards and measures for the Office of Ratepayer Advocates”*

⁵ “On or before January 10 of each year, the commission shall provide to the chairperson of the fiscal committee of each house of the Legislature and to the Joint Legislative Budget Committee.”

⁶ In addition, there are 12 attorneys to support ORA’s staff in litigation matters.

⁷ The ORA annual budget includes an authorization for up to \$3,750,00 for reimbursable contracts. Actual expenditures for reimbursable contracts occur only if there are proceedings that allow for reimbursable contracts. Examples include mergers and major resource additions.

Given the billions of dollars involved in delivering essential services regulated by the PUC and the efforts of organized industry groups, the legislature created ORA “to represent the interests of public utility customers and subscribers within the jurisdiction of the commission...to obtain the lowest possible rate for service consistent with reliable and safe service levels.”⁸ ORA measures its workload in two ways:

1. The number of pleadings⁹ filed by ORA before the Commission each year.
2. The number of proceedings¹⁰ ORA participates in on behalf of ratepayers.

ORA’s work product involves investigation and analysis to provide expert testimony and briefs for Commission proceedings. It can be measured by looking at the number of pleadings ORA filed on behalf of customers in various proceedings before the Commission each year.

ORA staff and attorneys file hundreds of pleadings annually on behalf of customers covering issues related to electricity, natural gas, telecommunications, and water. Pleadings are in various proceedings such as utility applications to increase rates, special investigations by the Commission, and formal complaints.

In 2003, ORA participated in 230 proceedings and made 572 pleadings. This represents a 23% increase in proceedings over 2002, and a 7% increase in the number of pleadings.

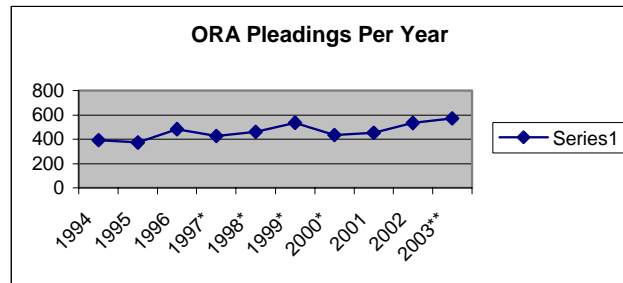
⁸ Public Utilities Code Section 309.5 (a): “There is within the commission a division to represent the interests of public utility customers and subscribers within the jurisdiction of the commission. The goal of the division shall be to obtain the lowest possible rate for service consistent with reliable and safe service levels. For revenue allocation and rate design matters, the division shall primarily consider the interests of residential and small commercial customers. The amendments made to this section by Chapter 440 of the Statutes of 2001 are not intended to expand the representation and responsibilities of the division.”

⁹ A pleading is a legal brief filed in a formal proceeding before the PUC. This would include proceedings such as applications to raise rates, Commission investigations, or complaint cases. In a typical proceeding there is an application, a review of the application that may result in a protest, a Prehearing Conference where ORA may be required to file a Prehearing Conference statement, independent analysis prepared by ORA (usually in the form of a report and expert witness testimony) that is served to proceeding participants, opening and closing briefs, and opening and closing comments on the Commission’s proposed decision.

¹⁰ A proceeding is a formal case before the Commission in which a legal record is developed. It may consist of sworn testimony and legal briefs. (See also footnote 3 for workload differences between proceedings.)

Number of ORA Legal Pleadings Per Year

Year	No. of Pleadings
1994	392
1995	373
1996	485
1997*	426
1998*	462
1999*	536
2000*	437
2001	453
2002	534
2003**	572



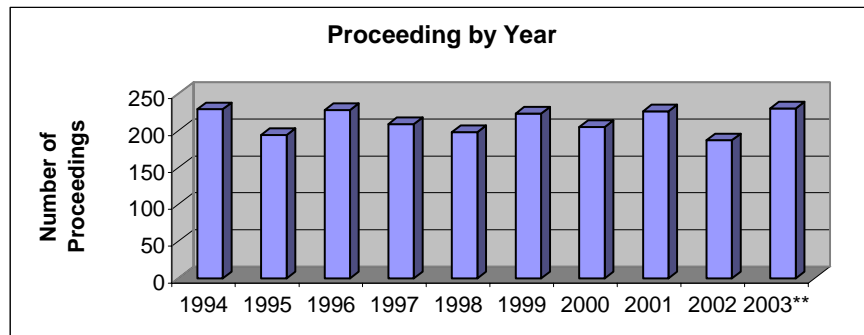
* Does not reflect water advocacy pleadings from January 1997 to October 2000 when the function was in Water Division.

** Data for December estimated based on 2003 weekly average through 12/03/03.

Number of Proceedings Per Year In Which ORA Participated

UTIL TYPE	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003**	Total
Communications	52	52	80	67	57	54	40	46	38	38	521
Energy	124	102	135	117	128	162	149	138	115	128	1287
Misc.	0	0	0	4	3	1	1	1	4	5	19
Safety	1	0	0	0	0	0	0	0	0	0	1
Transportation	12	6	1	2	2	1	1	0	0	1	26
Water	40	34	12	2	8	5	13	41	30	58	238
No Desig	0	0	0	17	0	0	1	0	0	0	18
TOTAL	229	194	228	209	198	223	205	226	187	230	2110

** Data for December estimated based on 2003 weekly average through 12/03/03.



Office of Ratepayer Advocates – 2004 Goals and Activities

ORA's key objectives on behalf of residential and small business customers during 2004 are:

- Ensuring cost-effective new investments in energy conservation measures; promoting small-scale/distributed generation; encourage additional renewable and conventional power plants, and adequate high voltage transmission to achieve balanced energy resources and reduced utility bills, while increasing the reliability of supply;
- Ensuring greater choices in tariff (offerings available to all customers for better managing electricity bills;
- Ensuring that residential and small business customers pay reasonable utility costs;
- Contributing in the development of a low-income water program similar to the Commission's rate assistance program for low-income energy customers;
- Representing consumer interests in the ongoing review of costs, service quality, and water quality of California's large investor-owned water companies;
- Representing telecommunications consumers' interests in proceedings that determine customers' rates, charges, and services from SBC, Verizon, AT&T, and other telecommunications companies;
- Representing energy consumers' interests in rate proceedings for Southern California Edison Company Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas and Electric Company, and Southwest Gas Company.

ORA Accomplishments for Fiscal Year 2002 - 2003

Energy Rate Cases

The Office of Ratepayer Advocates (ORA) focused considerable effort in 2002-2003 scrutinizing the costs of service of California's major electric and natural gas utilities. Responding to applications for huge rate increases filed by Southern California Edison, Pacific Gas and Electric Company, SoCalGas Company, San Diego Gas and Electric Company, PacifiCorp, and Sierra Pacific Power Company, ORA issued expert witness testimony in each of these cases challenging the merits of the proposed rate increases.

- Edison's May 2002 application asked for an \$818 million increase in electric rates for the period from 2003 to 2005. Based on an intensive study of current and proposed expenditures for each account, ORA recommended an overall reduction in Edison's authorized revenues of \$280 million for the 2003 and 2004 period, with a \$44.5 million upward adjustment in 2005.

- PG&E filed in November 2002 for a \$447 million increase in electric distribution costs, \$105 million increase in gas distribution costs, and \$149 million in utility retained generation costs. ORA challenged the magnitude of the proposed increase with extensive expert witness testimony that ultimately led to a negotiated settlement with PG&E and other consumer groups. The settlement provides for a \$236 million increase in electric distribution costs, \$52 million in gas distribution costs, and \$38 million in utility retained generation expenses, a savings of \$375 million over what the utility requested.
- SoCalGas filed for a \$100 million rate increase in December 2002. Following an audit and detailed scrutiny of the gas utility's costs of service, ORA responded with expert testimony finding that the Commission should reduce SoCalGas' authorized revenues by \$140 million compared to present rates.
- San Diego Gas and Electric's December 2002 application seeks an \$84.7 million increase in rates for electric distribution service with a \$21.4 million jump in gas distribution costs. ORA's analysis and audit of SDG&E's accounts showed that the Commission should cut the company's electric rates by \$42.3 million, with gas rates reduced by \$10.1 million.
- PacifiCorp filed for a \$12 million rate increase in December 2001. ORA ultimately entered into a negotiated settlement with PacifiCorp in June 2003 providing for only a \$2.8 million upward adjustment in rates, a savings of \$13.2 million to customers. Commission Decision No. 03-11-019 adopted the settlement.
- Sierra Pacific Company filed for an \$8.9 million rate increase in April 2002. ORA recommended a \$1.5 million increase. ORA ultimately entered into a settlement with Sierra Pacific in May 2003 that would provide for a \$3 million increase in rates.

Energy Issues

In 2002-03, the Commission moved forward with establishing new rules for the electricity and natural gas markets in California, and allocating the costs of the electricity crisis. As a key player in that effort, ORA evaluated utility proposals and resource plans, provided expert testimony on a broad spectrum of technical and policy issues, and participated in multi-party settlements on behalf of consumers. Bringing ratepayer interests into focus, ORA's advocacy efforts centered on reducing costs, ensuring reliable service, promoting energy efficiency and renewable energy technologies, protecting low-income households through rate discounts, and providing for a fair allocation of costs among customers.

Water Rates

ORA represents consumers in scrutinizing the costs of service of California's 10 large investor-owned water companies (Class A companies with over 10,000 customers). These 10 large companies have 63 geographically separate ratemaking districts, each with their own system costs. Most of ORA's work in this area concerns applications for

rate increases. In these general rate case applications, ORA audits the company's accounts, reviews past and projected expenses, forecasts of revenues, cost of capital, plant additions, and rate design. In the period July 1, 2002, to June 30, 2003, ORA issued reports for 33 ratemaking districts.

Telecommunications Rates and Services

With local and long distance telephone service available from multiple carriers, the telecommunications industry is nominally competitive. Regulatory efforts focus on ensuring that the original "baby bell" monopolies, SBC (formerly Pacific Bell) and Verizon California (Verizon) comply with pricing rules for certain regulated services, follow the rules for allowing competitive carriers to access their system facilities, maintain certain standards for customer service, and share excess profits with consumers. ORA's advocacy efforts in 2002-03 focused on the Commission's audit and periodic review of the current regulatory framework, and the need for improvements in service quality for the residential and business customers of SBC and Verizon.

- ORA recommended that SBC refund approximately \$900 million for audit-adjusted earnings to correct for accounting irregularities, and inappropriate cost allocations and affiliate transactions.
- ORA's survey of SBC's customers showed serious problems in residential and small business customers' perceptions of service quality.
- As a result of ORA and TURN's efforts, the Commission required SBC to provide detailed service quality information to compare the utility's current performance to pre-layoff levels.
- ORA sought a reduction in SBC's monthly charges for its residential Inside Wire Maintenance Plan. The Commission placed a cap on the current rate of \$2.99 per month and required SBC to justify any further increases. ORA also opposes Verizon's request to eliminate price regulation of its inside wire services.
- In response to Verizon's request to allow its affiliates to use Verizon's regulated assets, ORA recommended a number of consumer protections and cost provisions to compensate ratepayers and prevent affiliate abuse.